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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON THE PROMOTION AND PROTECTION OF HUMAN RIGHTS

Fifty-third session

SUMMARY RECORD OF THE 10th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 7 August 2001, at 10 a.m.

Chairperson: Mr. WEISSBRODT

CONTENTS

ADMINISTRATION OF JUSTICE (continued)

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

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The meeting was called to order at 10.05 a.m.

ADMINISTRATION OF JUSTICE (agenda item 3) (continued) (E/CN.4/Sub.2/2001/6 and 8 and Corr.1; E/CN.4/Sub.2/2001/NGO/5, 9 and 16; E/CN.4/Sub.2/2000/44)

1. The CHAIRPERSON said that the Bureau proposed that resolution 2001/1 on recognition of responsibility and reparation for massive and flagrant violations of human rights which constitute crimes against humanity and which took place during the period of slavery, of colonialism and wars of conquest, adopted unanimously by the Sub-Commission, should be presented by Mr. Pinheiro to the Preparatory Committee for the forthcoming Conference on Racism, Racial Discrimination, Xenophobia and Related Intolerance. It also proposed that the Chairperson should send copies of that resolution directly to the Chairman of the Preparatory Committee, the Coordinator of the World Conference, the United Nations High Commissioner for Human Rights and the Secretary-General of the United Nations.

2. It was so decided.

3. Mr. PARK, speaking on mass and flagrant violations of human rights which constituted crimes against humanity and which had taken place during the colonial period, period of slavery and wars of conquest, said he hoped that such violations could be properly redressed once they were considered in the context of crimes against humanity.

4. Various useful lessons could be learned from the advances made in international human rights law in three areas. In the first place, there was the development of jurisprudence, starting with the Nuremberg Trials and progressing through the International Criminal Tribunals for Rwanda and the former Yugoslavia to the International Criminal Court. Secondly, the experience gained from the long struggle against military tyrannies and extreme forms of racial and social discrimination, including the policy of apartheid, that had arisen largely from colonial occupation. As a result, there was currently a body of accumulated knowledge on how to prosecute those responsible for crimes against humanity, the types of remedies to provide to the victims, and ways of creating a climate of reconciliation in societies affected by such crimes. Thirdly, the victim perspective had been established with regard to the remedies available in cases of gross human rights violations, including the right to restitution, compensation and rehabilitation.

5. With a view to the Sub-Commission's further deliberations on the issue, he observed, first, that a system of remedies for gross violations of human rights which constituted crimes against humanity should comprise a comprehensive series of corrective measures, including, although not limited to, the prosecution of those responsible, public recognition of guilt, a true reflection of historical facts in educational material, and sufficient compensation for the victims.

6. Secondly, remedial systems should be implemented from the perspective of the victims and should ensure that individual victims could benefit directly. It was to be deplored that, in certain cases, some States had concluded, incorrectly, that the issue of remedies for gross violations of human rights was an inter-State issue. Moreover, despite global efforts to develop

international criminal courts, no progress had been made in providing concrete reparations to the victims at the international level; all too often, that was left to the sphere of domestic laws and the discretion of national Governments.

7. Thirdly, a clear distinction should be made between the victims' right to remedies for past atrocities and those for the resulting ongoing injuries. Fourthly, legitimate claims for past human rights violations had often been denied on the basis of the statute of limitations; consequently, its applicability to human rights issues should be analysed. It was, however, important to strike a balance between the claim for redress of past violations and the current regime's legitimate share of responsibility.

8. The judgements of the Nuremberg tribunal were based on the recognition that the crimes against humanity perpetrated by the Nazi regime were unacceptable at any time and under any circumstances, in addition to being punishable under international law at the time. Hence, a claim for redress would have greater legitimacy in cases where past violations were categorically unacceptable at any time where the injuries persisted within a given society and where the legitimate corrective measures had not been adopted.

9. Ms. HAMPSON said that she hoped that the Sub-Commission would follow up Mr. Park's comments. In a recent publication, three experts on the law of armed conflicts had analysed the issue of reparations for war crimes and crimes against humanity and had agreed that the law of armed conflict envisaged not only inter-State liability but also that individual victims should be able to seek redress. The difficulty was that, currently, there was generally no forum before which individuals could bring such a claim; it depended on whether the State whose conduct they wished to call into question was willing to provide the necessary access to its courts.

10. The international community had addressed the issue of criminal liability in the Rome Statute of the International Criminal Court, but needed to ensure that the State whose forces were allegedly responsible for such violations was obliged to provide a forum before which individuals could bring such claims; otherwise, the international community should provide such a forum. In such a case, if a State's forces were found responsible, the State in question would be responsible for delivering any reparations ordered. Consequently, the Sub-Commission should not disregard the issue of civil claims brought by individuals concerning war crimes and crimes against humanity.

11. The accountability of armed forces, United Nations Civilian Police (CIVPOL) and international civil servants taking part in peacekeeping operations had recently been made an agenda item by the working group on the administration of justice. In recent discussions, Mr. Joinet had emphasized the difficult conditions under which peacekeeping operations took place. There were two fundamentally separate issues that should be examined: the accountability for clear wrongdoing by members of the international presence and the powers of the international presence. Such powers should be defined clearly so that both the participants in the international presence and the members of the host community understood what they could or could not do. Currently, the rules were unclear. If, for example, an international security

force found itself running a place of detention, there were no clear guidelines on the fundamental rights of the detainees or the conditions under which they were held. It would be relatively simple for the States to clarify the situation, but, to date, they had not done so. She agreed that such operations took place under difficult conditions and said that it was not her intention to try and impose on the international presence rules that applied in a stable, peacetime environment.

12. Ms. MOTOC said that the legal basis for United Nations peacekeeping operations was very ambiguous. There was no mention of them in the Charter of the United Nations and the Security Council had given different mandates to different operations. Some of those mandates were coercive and, in such a case, it was difficult to speak of peacekeeping operations. The Sub-Commission should, therefore, examine all the operations that the Security Council had mandated.

13. Mr. van HOOF said he was concerned that Ms. Hampson considered that the international presence operated without clear guidelines. Although specific provisions might be necessary in cases involving the detention of individuals, the international presence was bound, above all, by international human rights law. Mr. Joinet had raised another issue concerning the procedural or organizational aspects and it was important to pay further attention to those aspects rather than to the substantive rules applicable in such a situation.

14. Mr. GUISSÉ said that certain criminals were being prosecuted by the tribunals created by the United Nations, applying the rules drawn up by the international community. Although such rules were not always clear, it should be possible to punish wrongful behaviour by members of United Nations peacekeeping forces and repair the damage caused to the victims under the existing rules. Although there was a certain lack of clarity, that should not lead to total impunity.

15. Unfortunately, in the past, when members of peacekeeping forces had committed serious human rights violations, they had not been prosecuted under either criminal or civil law but had merely been repatriated, while the victims had had no remedies. United Nations missions should always, therefore, include a legal and judicial component so that wrongful behaviour by any of their members could be punished.

16. Mr. JOINET said he agreed that there was a certain lack of clarity and that, on occasions, peacekeeping forces had apparently behaved in a totally unacceptable way. Steps had to be taken, but a clear distinction should be made between different situations. There were those related to violations committed by members of the armed forces under common law; others related to violations committed by members of the armed forces in the framework of the Geneva Conventions and, lastly, there were related to violations by peacekeeping forces in situations where the existing guarantees could not be applied. That concerned transitional situations where there was no legal or administrative structure in place and no international standards existed but war criminals had to be arrested and detained.

17. The Sub-Commission should concern itself only the with last two aspects, the possible extraterritorial jurisdiction of national military courts and the provisional standards that should be elaborated so that those responsible for such operations could carry out arrests and prosecute alleged offenders, while respecting certain minimum rules. The Working Group on Arbitrary

Detention was examining that point and had been notified of certain cases, connected with the Kosovo Force (KFOR), in particular. In view of the number of cases, it had decided not to handle them directly, but rather to work on the question of the principle and hoped to be able to propose a certain number of guidelines to respond to the third aspect of the problem, in 2002.

18. Ms. HAMPSON, referring to the third aspect, said it was completely unacceptable that there should be no standards at all regulating the circumstances, manner and period of detention. However, there were other issues involved and some of them were outside the scope of the Working Group on Arbitrary Detention; for example, the circumstances in which a person or his home could be searched, and the rules concerning the seizure of personal property, including weapons and land. Certain peacekeeping contingents had shown how much could be done merely by planning ahead, identifying potential problems and finding simple, practical solutions. The Sub-Commission should work on a broad range of issues relating to the powers given to peacekeeping operations including, but not confined to, those relating to detention.

19. Mr. YOKOTA supported Ms. Hampson's proposal. However, there were some people that did not consider operations such as KFOR to be peacekeeping operations. He therefore suggested that the topic should be expanded to include that kind of case and the title of the study modified to encompass all such activities. In the case of a multilateral force sanctioned by a Security Council resolution, there was a complex legal issue concerning the division of responsibility between the United Nations and the Governments contributing forces. Such legal issues had not been adequately dealt with in the past by international lawyers or by international human rights experts and the Working Group on Arbitrary Detention provided an appropriate forum to address them.

20. Ms. HAMPSON said that the term used should be "peace support operations", thus making clear that both peacekeeping and peace enforcement were involved.

21. Mr. ALFONSO MARTINEZ said he agreed with those who emphasized the importance of the whole issue of which rules of international humanitarian law and international human rights law should be made mandatory for United Nations forces involved in peacekeeping operations. However, great caution should be exercised in respect of operations not authorized by the United Nations Security Council, such as the bombing of Kosovo in 1999. It was not the task of the Sub-Commission to seek to apply the rules of international law to particular aspects of an operation which, in the opinion of many jurists, had been totally illegal from the beginning and to do so might risk giving that operation the stamp of legality.

22. It was logical to assume that any military activities conducted by multinational forces under the control of the United Nations would be subject to international law in the same way as United Nations civil activities. He agreed with Ms. Hampson that the question of persons detained following intervention by United Nations forces engaged in peacekeeping operations should be addressed by the Sub-Commission and not by the Working Group on Arbitrary Detention since it went far beyond the specific problem of such detention.

23. Referring to the working paper submitted by Ms. Zerrougui on the subject of discrimination in the administration of justice, he congratulated her on the work done to date, but said the study needed to be further developed. In the terms of the Universal Declaration of Human Rights, discrimination could be exercised in respect of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. It was impossible to deal exhaustively with such a vast subject at the first attempt, and the Sub-Commission should encourage Ms. Zerrougui to continue her research.

24. He agreed that it was appropriate for the study to distinguish between discrimination arising from conditions prevailing in a particular society and discrimination arising from deficiencies in a particular system of administration of justice. On the one hand, economic and structural factors such as the status of minorities, vulnerable groups and those unable to afford legal assistance should not be overlooked. On the other, deficiencies in the judicial system arising from lack of material resources or appropriate legal remedies against possible discrimination were also significant. The study should not attempt to deal with the issue of the extent to which sentences handed down were fair or appropriate from the standpoint of existing legislation, since that would not be in keeping with the principle of preserving the independence of the judiciary.

25. Concerning the International Criminal Tribunal for the former Yugoslavia, the study should not overlook the need to assess the extent to which the Tribunal had been able to fulfil its original mandate, namely to investigate all human rights violations committed in the territory. To date, it had confined itself to violations committed by individual agents and had not taken into account violations resulting from the illegal act of aggression committed by the North Atlantic Treaty Organization (NATO) in 1999 by the indiscriminate bombardment of Kosovo.

26. He intended to submit to the forthcoming session of the Working Group some recent material relating to privatization of prisons.

27. Mr. GOMEZ-ROBLEDO VERDUZCO said that, while it was true that no specific legal justification for peacekeeping operations was set out in the United Nations Charter, the legal basis for such operations was implicit in the functions and powers of the United Nations itself. It should not be forgotten that one of the purposes of the United Nations was to maintain international peace and security, in connection with which the International Court of Justice had been established. The problem was that, in many cases, no explicit consent to peacekeeping operations was given by the State involved. In recent years, peacekeeping operations had undergone major changes, and the fact that the guidelines governing them had become extremely ill-defined caused him some concern.

28. Mr. ABDESLEM (International Youth and Student Movement for the United Nations) said he wished to draw the Sub-Commission's attention to the deteriorating situation in the Western Sahara, whose people were the victims of aggression and military occupation by Morocco. The Moroccan occupying forces were continuing to violate human rights and fundamental freedoms in the territory with impunity, and hundreds of people had been reported missing or were rotting in prison following unfair trials. Many had been arbitrarily detained and were being subjected to torture in prison.

29. Despite the presence of the United Nations in the territory since 1991, the situation had worsened, and no mention had been made in a series of reports by the Secretary-General of the serious human rights violations committed there. The only concern expressed had been with regard to the fate of 1,400 Moroccan prisoners held by the Frente POLISARIO who, in fact, received regular visits from the International Committee of the Red Cross (ICRC). Those continuing to fight for human rights in the occupied territories were threatened with reprisals, and restrictions were placed on their movements.

30. He urged the United Nations to take stronger action to ensure that human rights were respected in the Western Sahara.

31. Mr. EIDE said that Ms. Zerrougui's study was a very important one, and should be paid further attention at the Sub-Commission's next session. Issues to be highlighted should include the situations of indigenous peoples, vulnerable minorities and aliens, and the special problems faced by women in the custody of law-enforcement officers. The paper stated that institutional discrimination was sometimes apparent in supra-national rules, particularly those concerning cooperation between States in judicial and police matters; he would be glad if the problems in that regard could be spelt out in greater detail. Reference was also made to the situation of the victim in the context of some recent international instruments such as the Convention against Transnational Organized Crime: the study should elaborate on the problems faced in protecting victims of such crimes from the offenders, who were often aliens. Another issue to be further pursued was the discrimination apparent in certain legal standards and bilateral conventions on cooperation in police matters: again, he would like the problems encountered to be more fully spelt out.

32. Mr. IQBEL KHAN (Observer for Pakistan), speaking in exercise of the right of reply, said he had been saddened to hear the statement made the previous day by Mr. Nawaz on behalf of the International Institute for Peace, which had originally been known as the Indian Institute for Peace. That organization was financed by the Indian intelligence authorities, and its objective was to malign Pakistan in a number of human rights forums. The statement revealed that India, despite Pakistan's willingness to remain open for dialogue with a view to the achievement of peace, was still bent on pursuing a war of vilification against it. The Sub-Commission should not allow itself to be led by State-sponsored non-governmental organizations (NGOs) into pursuing narrow political aims or interfering in the internal affairs of sovereign States.

33. The CHAIRPERSON said that, while he was concerned to allow speakers the maximum freedom of expression, particularly in the context of the right of reply, he appealed, on behalf of the Sub-Commission, to all participants to avoid personal attacks calling into question the character and integrity of any other participant.

34. Mr. LEBAKINE (Secretary of the Sub-Commission), responding to the concern expressed by the observer for the Russian Federation about an item in the report of the Office of the High Commissioner for Human Rights (E/CN.4/Sub.2/2001/6), said that a corrigendum would be issued.

ECONOMIC, SOCIAL AND CULTURAL RIGHTS (agenda item 4) (E/CN.4/Sub.2/2001/10, 11 and Add.1, 12 and Add.1, 13, 14 and 33; E/CN.4/Sub.2/2001/NGO/3, 11 and 17-22; E/CN.4/Sub.2/2001/CRP.1; E/CN.4/Sub.2/2001/WG.2/WP.1 and Add.1-3; E/CN.4/2001/51-53, 54 and Add.1 and Corr.1, 62/Add.2 and 148; E/CN.4/Sub.2/2000/12 and 13)

35. Mr. SANCHEZ (American Association of Jurists) said he wished to express the solidarity of his organization with the Genoa Social Forum, and particularly with the victims of police brutality. He welcomed the setting up of a committee of inquiry by the Italian Parliament which should also investigate the role that might have been played in the disturbances by the Italian secret service, fascist groups, anarchist elements and the United States Central Intelligence Agency (CIA).

36. His organization had submitted a number of written documents to the current session of the Sub-Commission. The first concerned copyright which, it argued, should be defined as a human right and distinguished from trademarks, patents and other commercial rights, particularly in the context of interpreting the Agreement on the Trade-Related Aspects of Intellectual Property Rights (TRIPS) of the World Trade Organization (WTO).

37. Two further documents related to the activities of the working group on the working methods and activities of transnational corporations. In his organization's view, the working group had wasted a good deal of time developing non-binding guidelines for such corporations, whereas it should be giving advice to States on how to ensure that the corporations complied with the existing national and international human rights standards. The argument that a voluntary code was a first step towards a binding code was untenable, firstly, because experience had shown that the rich countries would never accept a binding code and, secondly, because a voluntary code allowed transnational corporations the extraordinary privilege of deciding for themselves whether or not they would respect such rules.

38. His organization had hoped to receive at least minimum support from the Office of the High Commissioner for Human Rights (OHCHR) but had encountered difficulties of communication due to the fact that the officials concerned spoke only English.

39. A further document submitted concerned the disastrous consequences - possibly including the crime of genocide - suffered by the Iraqi people as a result of the action taken by the United Nations Compensation Commission. The document noted in particular the role played by the Security Council, which had entirely illegally assumed a function properly belonging to the International Court of Justice.

40. Lastly, his organization suggested that the Sub-Commission should propose a procedure for bringing complaints before the Committee on the Rights of the Child and should approve a draft declaration defining the sexual abuse of minors as inhuman and degrading treatment.

41. Ms. PARKER (International Educational Development, Inc.) condemned the recent destruction by the Taliban regime in Afghanistan of statues forming part of the world's cultural heritage. She also urged the Sub-Commission to continue to seek ways to address the question of the economic rights of the Afghan people, who faced the complete destruction of their country by the Taliban and other forces.

42. She welcomed the continuation of the work being carried out by the Special Rapporteur of the Commission on Human Rights on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights. That work was particularly important in the light of the abandonment of the Kyoto Agreement by the United States and other serious environmental problems.

43. The most pressing international issue relating to economic rights was the continuing sanctions against Iraq, which not only violated humanitarian law but also contravened the Charter of the United Nations and all human rights instruments. The sanctions were illegal and inhumane and, what was worse, politically motivated.

44. Her organization welcomed the report presented by Mr. Bossuyt to the Sub-Commission at its fifty-second session (E/CN.4/Sub.2/2000/33), which set out a six-prong test for sanctions. It also welcomed the fact that both the Special Rapporteur on the situation of human rights in Iraq and the Special Rapporteur on the right to food of the Commission on Human Rights had taken Mr. Bossuyt's report into account. In his report (E/CN.4/2001/53), the latter Special Rapporteur had concluded that the Security Council, by maintaining the sanctions regime against Iraq, was in clear violation of its obligation to respect the right to food.

45. Despite the fact that the sanctions were clearly inconsistent with international standards, the United Nations continued to impose them because of pressure from a single Government. The international economic and political interests of that one Government were being allowed to dictate the agenda of the international community. As a direct consequence, over 2 million civilians had died, hundreds of thousands were suffering from serious heath problems related to malnourishment, and many children had been born with deformities caused by the use of depleted uranium. The sanctions were even denying painkillers to children dying of leukaemia and other cancers. She thus urged the Sub-Commission to call for an immediate end to sanctions against Iraq.

46. Mr. PORRET (Association of World Citizens) said that globalization meant absolute domination by economic forces. Several institutions had been established to ensure that its laws and principles governed the activities of individuals, States and international organizations such as WTO and the Group of Seven or Eight G-7/8. The G-7 had been set up in the 1970s by the richest capitalist countries to establish a system of supranational domination. The International Monetary Fund (IMF) was imposing harsher and harsher measures of structural adjustment on the developing countries. There were no plans to abolish the rule that a European should always preside over the IMF, and a United States citizen should head the World Bank. The United States Government had recently refused to sign the Protocol to the Biological Weapons Convention in order to protect its commercial interests. The recent violent demonstrations against the institutions supporting globalization were a measure of the strength of the growing opposition to globalization in civil society.

47. Ms. KHAN (Asian Centre for Organisation, Research and Development) said that the Indian people shared a socio-cultural ethos which kept them united in the face of diversity. The recent Kumbhmela gathering had brought together Indians of all religions in the world's

largest religio-cultural congregation. As a Muslim film maker, she had never encountered discrimination on the grounds of her religion, and the leading heroes of "Bollywood" were all Muslims.

48. Socio-cultural unity had traditionally been particularly strong in Jammu and Kashmir, where Hindus and Muslims ate the same food, drank the same drink and wore the same forms of dress. Yet that peaceful spirit of coexistence was being threatened by fundamentalism and religious bigotry. Divisive foreign powers were attempting to spread unrest by encouraging such forces. The Kashmiri people demanded the right to be left in peace to enjoy their economic, social and cultural rights to the full. Their concern was for the right to development, rather than for freedom or liberation. She was proud to belong to a democracy, the Republic of India, which endeavoured to guarantee those rights.

49. Mr. AL-ADHADH (Interfaith International) said that a serious cultural crisis had arisen in Iraq due to the attack by the Iraqi Government on the Shia religious tradition. Saddam Hussein had recently stated publicly his intention to punish Shia religious leaders who refused to cooperate with his Government. On 22 June 2001, Ayatollah Hossein Bahar Al-Oluum, leader of the Shia community in Iraq, had been found dead in the house where he had been under guard by State police. The Government had refused an autopsy and a public ceremony at the Ayatollah's burial. The previous leader had been assassinated with some of his children on 19 February 1999.

50. Hundreds of other religious leaders had disappeared, been executed or assassinated. The Government had also begun to destroy religious sites, which threatened the survival of the world cultural centre of Shia at Najaf and Kerbala. He urged the Sub-Commission to call on the Secretary-General to send a fact-finding commission to southern Iraq, together with the Special Rapporteurs on the human rights situation in Iraq, religious intolerance and extrajudicial, summary or arbitrary executions, to seek means of protecting the lives of the rest of the Shia spiritual leadership and guaranteeing respect for the religious and cultural rights of the Shiites.

51. Mr. MADELIN (International Federation for Human Rights) said that the Sub-Commission should continue to consider the impact of globalization on the full enjoyment of human rights. The issue was particularly important at a time when the States members of the WTO were preparing to launch a new round of multilateral trade negotiations. Despite the fact that almost all its members had ratified international human rights instruments, the WTO continued to treat human rights concerns as forms of protectionism and as barriers to trade liberalization.

52. The Agreement on TRIPS gave precedence to the right to intellectual property to the detriment of fundamental rights such as the right to enjoy the benefits of scientific progress, the right to health and the right to food. Given that 90 per cent of the world's patents were owned by multinational corporations, the priority given to short-term profitability seriously endangered biodiversity, biological security and the fulfilment of individuals' basic needs. As well as restricting developing countries' access to essential medicines by protecting the right of companies to maintain high prices, the TRIPS Agreement even deprived those countries of the

technology which would allow them to make such medicines at a lower cost. The General Agreement on Trade in Services (GATS) opened public services up to competition and to the law of the market, endangering the rights to education and health. His organization believed that private companies could not be expected to provide public services in a manner which put the public interest before profitability.

53. His organization welcomed the working paper by Mr. Weissbrodt entitled "Principles relating to the human rights conduct of companies" (E/CN.4/Sub.2/2000/WG.2/WP.1), and called for effective measures to implement those principles. A binding legal instrument should be developed so as to clarify the responsibilities of the companies and the States. The working group on the working methods and activities of transnational corporations should be encouraged to draw up a list of transnational corporations, giving details of their activities and whether they had a negative or positive impact on human rights.

54. Mr. MUMTAZ KHAN (International Institute for Peace) said that countries in which military dictators overthrew elected Governments had no respect for human rights, the rule of law and democracy. In the disputed territory of Jammu and Kashmir, the Government of Pakistan was attempting to destroy the cultural heritage of the Kashmiri people in order to subjugate future generations. Kashmiri history and culture had been excluded from the syllabus in the schools, and replaced by courses designed to inculcate Pakistani values. Pakistan also exploited Kashmiri resources, directing the taxes collected there towards other regions. The Government's proposal to raise the height of the Mangla Dam would not only lead to the displacement of over 40,000 families, but would also cause untold environmental damage. It had failed to invest in the infrastructure of Kashmir, to the detriment of industry and tourism in the area. Similarly, the inhabitants of Gilgit Baltistan had been denied access to economic, social and cultural rights. Most of them remained poverty-stricken despite the region's rich natural resources.

55. Mr. KHOURI (Union of Arab Jurists), speaking also on behalf of the International Association of Democratic Lawyers, the General Arab Women Federation, the World Movement of Mothers and the International Organization for the Elimination of All Forms of Racial Discrimination, said that the embargo imposed upon Iraq had led to the deaths of hundreds of thousands of civilians, and destroyed the country's health care, education and communications systems. His organization supported Mr. Bossuyt in his assessment (E/CN.4/Sub.2/2000/33), that the sanctions regime was clearly inconsistent with international humanitarian law, and was designed to destroy the living conditions of the Iraqi people. He also drew attention to the illegality of the United Nations Compensation Commission.

56. The harmful effects of the use of depleted uranium continued to be felt by the Iraqi population, 10 years after the Gulf War. Cancer and birth defects were the most common consequences of the radiation from depleted uranium. About 135,000 tonnes of bombs, or the equivalent of six times what was dropped on Hiroshima, had been used on the Iraqi people, and had led to the pollution of the air, water table and food chain. The organizations he was representing called for an immediate end to the sanctions against Iraq, as well as an in-depth study of the consequences of depleted uranium pollution.

57. Mr. SYED (European Union of Public Relations) said that a peaceful environment was required for the full enjoyment of economic, social and cultural rights. The people of the Indian State of Jammu and Kashmir had been denied those rights for the past 12 years by armed groups from a neighbouring country who were waging a war against the elected Government. They had burned down schools, colleges, laboratories and libraries, destroyed bridges and disrupted means of communication. The press was intimidated and intellectuals were gunned down for expressing their views. Armed groups were seeking to thrust on the Kashmiri people, in the name of religion, a culture and way of life that they found unacceptable.

58. The people of Kashmir could exercise their right to development only if the infiltration of armed groups was halted, peace was restored and their indigenous values were respected.

59. Ms. HAGEN (International Federation of University Women), speaking also on behalf of the International Federation of Business and Professional Women, the International Council of Women and Zonta International, said that women made up the bulk of the work force in the manufacturing and service sectors and were becoming increasingly numerous in the international financial sector. They had shown entrepreneurial initiative in the informal sector and in setting up small and medium-size companies.

60. In terms of earning power, however, they were still disadvantaged, partly owing to their double burden of paid and unpaid work. Women accounted for two thirds of the world's poor and the non-recognition and non-valuation of women's unpaid work and intellectual property perpetuated their impoverishment, especially in developing countries. It was to be hoped that the Sub-Commission's Social Forum would provide a platform for assessing progress in the economic and social inclusion of women and poverty eradication.

61. A holistic approach should be adopted in identifying the obstacles facing women. The conceptual framework consisting of the right to work, the right to an adequate standard of living and the right to intellectual property, as defined in the International Covenant on Economic, Social and Cultural Rights, was a male-based model and failed to reflect or attach a value to the many kinds of women's activities that contributed to economic development.

62. A second key issue was access to land, property and credit, especially for women in the South. It was essential to change de facto and de jure attitudes to women, especially where credit was needed for projects with a potential for economic growth. Studies had shown that women were well able to manage and reimburse loans. The World Bank was to be commended in that connection for its Micro-Credit Summit initiative and for providing part of the concessionary lending to women for capital formation. However, such projects should pay more attention to the rural poor.

63. Affirmative action programmes for women should also be promoted to address the problem of low wages and to remove the barriers to top decision-making positions. Codes of conduct should be developed to ensure gender equality in the economic sphere, and women's legal right to organize and to bargain collectively should be enforced, inter alia through implementation of the Declaration on Fundamental Principles and Rights at Work of the International Labour Organization (ILO).

64. Steps should be taken to change attitudes, in particular the notion that women had a secondary role to play in the economic and political arenas. Women's lack of awareness played into the hands of those who used violence against them in the form of sexual harassment and trafficking. Hence the need for women in decision-making positions to defend the interests of the vulnerable.

65. Mr. RAINA (Himalayan Research and Cultural Foundation) said that damage to the social fabric of Kashmir during 12 years of violence had prevented its people from exercising their economic, social and cultural rights. The economy had been devastated. Tourism, formerly a major source of income, had been adversely affected by insecurity and those who had depended on the industry for their livelihood were unemployed. The pervasive sense of insecurity had also affected shopkeepers, farmers and horticulturalists, who left their shops, fields and orchards early in the evening to regain the safety of their homes. Truck drivers had been gunned down on their way to the market.

66. The pervasive violence and gun culture had damaged Kashmir's cultural heritage and undermined its social values. Religious fanaticism was unknown in indigenous Kashmiri culture. Different religious and ethnic groups had always lived in harmony in both urban and rural areas. Even the majority Muslim community currently felt oppressed; many members of the minority Pandit community had fled; even the lives of Sikhs had been rendered insecure. Traditional cultural events and festivals were dying out. Time-honoured wedding and mourning customs were no longer observed. Even places of worship were unsafe. Deep-seated fears had generated emotional trauma and led to an increase in heart disease and a rise in the mortality rate.

67. He prayed for the safe return of all Kashmiris who had sought refuge elsewhere during the past 12 years and stressed that no Kashmiri would agree to the partition of Jammu and Kashmir on religious or ethnic lines.

68. Ms. BIONDI (International Confederation of Free Trade Unions) said that her organization was convinced that most protestors at events such as the recent G-8 meeting in Genoa were expressing concern at the inadequate attention given to social factors by those who established the rules of the global economy. The Bretton Woods institutions and WTO should forge stronger links with representative groups, such as trade unions, in order to ensure a greater respect for human rights, including core labour standards, and social protection policies. Structural policies should focus on economic growth and fair employment rather than on privatization and liberalization.

69. With regard to the proceedings of the working group on the working methods and activities of transnational corporations, her organization had made suggestions for improving the draft universal human rights guidelines for companies, some of which had been taken into account. The working group should produce an expert interpretation of the human rights responsibilities of businesses in the light of the Universal Declaration of Human Rights and the two International Covenants on Human Rights, adopting an approach similar to that which had resulted in the adoption by ILO of its Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy. The approach consisted in "adding value" to existing standards rather than in developing a new standard.

70. Her organization was opposed to the inclusion among source materials of "codes of conduct" promulgated by the companies themselves. Instruments such as the "Global Sullivan Principles of Corporate Social Responsibility" were basically intended for companies that disapproved of trade unions and the term "voluntary freedom of association" was a distortion of the idea of freedom of association as defined by ILO bodies over a period of decades. The draft guidelines should not encourage the notion that corporations could unilaterally define their human rights obligations. The ILO Declaration also reflected an understanding that voluntary activities were no substitute for the responsibilities of Governments and that there should be a relationship between government and business action to implement social policies.

71. The issue of implementation, monitoring and verification of company codes of labour practice was controversial and many questions remained unanswered. Her organization questioned the idea that certain rights could be protected outside the application of the law and that respect for freedom of association could be privately verified where there was no functioning trade union.

72. With regard to the labour standards component of the guidelines, the Sub-Commission should rely more on the expertise of the ILO and of international trade union and employers' organizations.

73. Mr. BEERSMANS (International Movement for Fraternal Union among Races and Peoples) said that the economic, social and cultural structure of the State of Jammu and Kashmir had been destroyed by the use of violence by extremist and fundamentalist elements since the late 1980s. The tourist industry had been wiped out. The Pandits had been forced to seek refuge elsewhere. Many innocent Kashmiris had been killed or disabled. Cultural and historic sites had been destroyed.

74. Peace talks should begin forthwith. The recent meeting between the Indian Prime Minister and the President of Pakistan had been a promising first step and the acceptance by the Indian Prime Minister of an invitation to visit Islamabad had sent out a positive signal to the world. His organization urged those in positions of responsibility to seek to persuade the users and supporters of violence to resort to peaceful means to reach their goal. The next meeting between the leaders of India and Pakistan would give them an opportunity to demonstrate their willingness to settle their differences peacefully.

75. Mr. BOBB (Indian Law Resource Center) said that the United States was violating the cultural rights of the Western Shoshone people by preventing them from caring for their land. A delegation from the United States appearing before the Committee on the Elimination of Racial Discrimination the previous day had been unable to respond to questions about those violations, asserting that more research was required. He urged the Sub-Commission to call on the United States to fulfil its international obligations in that regard.

76. The United States Government had breached a treaty of peace and friendship concluded with the Western Shoshone people in 1863 by allowing international gold mining companies to invade their lands, tear up the soil and pollute the water, which was sacred to the Shoshones. The Government allowed the mining companies to destroy traditional sites and gathering areas and denied the Shoshones access to those areas, claiming they had lost their title to the land.

The Government also planned to burn an area of 875,000 acres containing burial sites, medicinal plants, animals and petroglyphs, and to bury nuclear waste in the soil. As a result of 50 years of nuclear weapon testing, the soil, plants and animals were poisoned by radiation.

77. He urged the international community to call on the United States Government to recognize the rights of the Western Shoshone people to their land and culture.

78. Mr. ALI (Afro-Asian People's Solidarity Organization) said that globalization programmes should ensure access for all to the benefits of technological and scientific development as an economic right. Social and cultural rights could be preserved only where minority groups were permitted to practise their faith and maintain their cultural practices unimpeded. Democracy, however imperfect, provided the only basis for the enjoyment of both the right to development and economic, social and cultural rights.

79. After decades of democracy, the South Asian region had once again fallen victim to dictatorial rule, the usurpation of democracy and the use of religion to oppress minorities. Unrelenting calls for jihad emanating from Pakistan threatened people's economic, social and cultural rights. Afghanistan had been laid waste. Decades of development in Jammu and Kashmir had been wiped out by terrorism and its minorities lived in fear. In Bangladesh, bombs had been planted by armed bigots trained in Afghanistan.

80. The creation of wealth was not a global panacea. The inculcation of a value system that shunned intolerance and inequality was a prerequisite for the enjoyment of the fruits of globalization. When economic aid was used as a political tool, a reward for those who accepted the donor's political and strategic models, the whole concept of globalization was corrupted. Moreover, the right to development was forfeited when substantial resources had to be channelled into the fight against terrorism. To help eradicate the breeding grounds of terrorism, the international community should outlaw the trade in small arms and light weapons.

The meeting rose at 1 p.m.